

Council/Agency Meeting Held: _____		City Clerk's Signature _____
Deferred/Continued to: _____		
<input type="checkbox"/> Approved	<input type="checkbox"/> Conditionally Approved	<input type="checkbox"/> Denied
Council Meeting Date:	November 15, 2004	Department ID Number: PL04-24

CITY OF HUNTINGTON BEACH REQUEST FOR ACTION

SUBMITTED TO: HONORABLE MAYOR AND CITY COUNCIL MEMBERS

SUBMITTED BY: PENELOPE CULBRETH-GRAFT, City Administrator

PREPARED BY: JENNIFER MCGRATH, City Attorney

HOWARD ZELEFSKY, Director of Planning

SUBJECT: APPROVE ZONING TEXT AMENDMENT NO. 04-03 (TENTATIVE PARCEL MAP EXEMPTION) AND AFFORDABLE HOUSING IN-LIEU FEE (CONDOMINIUM CONVERSIONS) *Ordinance No. 3690, Resolution No. 2004-91*

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CITY CLERK
CITY OF
HUNTINGTON BEACH, CA

Statement of Issue, Funding Source, Recommended Action, Alternative Action(s), Analysis, Environmental Status, Attachment(s)

Statement of Issue:

Transmitted for City Council review is Zoning Text Amendment No. 04-03 (ZTA 04-03) and Ordinance No. 3690. ZTA 04-03 represents a request by the City of Huntington Beach to amend Chapter 250, Subdivisions General Provisions, of the Huntington Beach Zoning and Subdivision Ordinance eliminating tentative parcel map procedures for apartments and stock cooperatives that were converted and sold as condominiums prior to June 1, 2004 without City approval. Resolution No. 2004-91 establishes an affordable housing in-lieu fee for condominium conversions that are unable to comply with current on-site parking and landscaping requirements.

Staff recommends the City Council approve the requests as submitted (**Recommended Actions**) and adopt the ordinance exempting some condominium conversions from tentative parcel map procedures and establishing an affordable housing in-lieu fee.

Funding Source: Not applicable.

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Recommended Action:

STAFF RECOMMENDATION:

Motion to:

1. "Approve for introduction Ordinance No. 3690 and Zoning Text Amendment No. 04-03 with findings for approval (ATTACHMENT NO. 1 and NO. 2)."
2. "Adopt Resolution No. 2004-91, a resolution of the City Council of the City of Huntington Beach establishing the affordable housing in-lieu fee authorized by Zoning and Subdivision Ordinance Chapter 235 relating to residential condominium conversions (ATTACHMENT NO. 3)."

Alternative Action(s):

The City Council may make the following alternative motion(s):

1. "Deny Zoning Text Amendment No. 04-03 with findings."
2. "Deny Resolution No. 2004-91,"
3. "Continue Zoning Text Amendment No. 04-03 and Resolution No. _____, and direct staff accordingly."

Analysis:

A. PROJECT PROPOSAL:

Applicant: City of Huntington Beach, 2000 Main Street, Huntington Beach, CA 92648

Location: Citywide

Zoning Text Amendment No. 04-03 is an amendment to the Huntington Beach Zoning and Subdivision Ordinance (HBZSO) to update the condominium conversion process. The recommended amendment creates a tentative parcel map exemption for apartments and stock cooperatives with two to four units on a parcel that were sold as condominium units without City approval prior to June 1, 2004. Additionally, Resolution No. 2004-91 establishes an affordable housing in-lieu fee option of \$15.00 per square foot of building floor area for previously converted condominium units that are unable to meet current development standards for parking and landscaping.

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B. BACKGROUND

On July 6, and July 19, 2004, the City Council updated the condominium conversion ordinance by creating processing exceptions for apartments and stock cooperatives that have been converted into condominiums without City approval. Additionally, the Council adopted updates for all future condo conversion projects.

According to adopted code standards, each condo conversion project requires approval of a conditional use permit and tentative parcel map. Additionally, each property must demonstrate compliance with current parking and landscaping requirements of the HBZSO. Many older apartment complexes constructed from the 1960's through the early 1990's may find it difficult to meet current parking requirements, as the space for parking stalls and vehicular maneuvering is not available. One alternative to address deviations in parking and landscaping is to request approval of a variance. Variances, however, may only be approved if there is a land related hardship or special circumstances, such as size, shape, topography, location or surroundings, which renders compliance with the zoning code infeasible. Variances may not be a grant of special privilege, may not be materially detrimental to the general welfare or injurious to properties in the same zone classification, and may not adversely affect the General Plan. Furthermore, variances may only be approved if it is necessary to preserve the enjoyment of one or more substantial property rights. The Zoning Administrator, as the approving body for this special class of units, must positively affirm all of these findings for approval prior to rendering a decision on a variance request. It will likely be difficult to approve a variance in these cases because there may not be a land related hardship associated with the request. For instance, most triplexes and fourplexes were constructed on property that is the same size and shape as all other surrounding multi-family zoned properties. If the properties are regular in shape and size, there are no grounds to allow deviations from zoning code development standards. Additionally, approval of a variance for projects that were completed without proper City approval may be construed as granting a special privilege that is not afforded to other projects in the same zoning district. It should be noted, however, that any property owner may apply for a variance if they choose to do so, the request will be evaluated on its own merits, and deliberated in a public hearing forum before the Zoning Administrator.

At the July 6, 2004 public hearing, the City Council directed staff to further streamline the permitting process and asked to explore alternatives deleting the tentative parcel map process for previously converted units. The Council also directed staff to investigate alternatives for projects unable to comply with current code provisions for parking and landscaping, while at the same time develop an affordable housing in-lieu fee to offset the loss of affordable rental housing.

The recommendations of this Request for Council Action follow-up with Council's July 6, 2004 direction for further streamlining.

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C. STAFF ANALYSIS AND RECOMMENDATION:

Tentative Parcel Map Exemption

The proposed ordinance change allows an exemption to the parcel map process providing the following items are completed:

- a. Sale of condominium units is evidenced by recorded documents
- b. No dedications or improvements are required by the Zoning and Subdivision Ordinance
- c. Covenants, conditions, and restrictions (CC&Rs) are recorded at the County of Orange
- d. A plat map showing the condominium subdivision is prepared, approved by the City Engineer, and recorded at the County of Orange
- e. A conditional use permit is approved pursuant to Section 235.04 and a Certificate of Compliance is issued by the Director and recorded at the County of Orange

A comparison of estimated costs between the current tentative parcel map (TPM) process and the proposed certificate of compliance process is indicated in the chart below. Estimated costs for preparation of documents and recordation at the County of Orange are also included. Please note, however, this chart does not include cost estimates of the conditional use permit process, which was previously reported to Council.

ISSUE	CURRENT TPM PROCESS	TPM EXEMPTION PROCESS
Tentative Parcel Map Filing Fee	\$3,994*	None
Dedication and Improvements	Most Likely Not Required – TBD on case by case basis	Most Likely Not Required – TBD on case by case basis as part of a CUP
CC&R Review Fee	\$993*	None – Should already be recorded at County
Preparation of Tentative Parcel and Final Parcel Map by Licensed Engineer/Surveyor	\$12,000 - \$15,000 (Estimated Cost)**	None
Final Map Processing Fees	Planning Department: \$1,073* Public Works: \$1,744*	None
Plan Check and Recordation of Final Map at County of Orange	\$2,500 (Estimated Cost)**	None
Preparation of Plat Map by Licensed Engineer/Surveyor	None	\$5,000 (Estimated Cost)**

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Certificate of Compliance Filing Fee	None	\$504*
Certificate of Compliance Recordation Fee at County	None	\$800 (Estimated Cost)**
TOTAL	\$25,304	\$6,304

*Filing fee costs represent fees established by City Council resolution for processing permits.

**Estimated fees are provided for additional costs, which may be incurred, to prepare engineering drawings and record items at the County of Orange.

In staff's recommendation, a certificate of compliance, with a plat map prepared by an engineer, substitutes for the tentative and final parcel map procedure at a substantially reduced cost. Therefore, the subdivision of the property is still legally recognized and recorded at the County of Orange ensuring current and future owners protection with definitive lot lines, establishing ownership boundaries, and describing common areas.

Staff recommends approval of Zoning Text Amendment No. 04-03 in order to reduce processing costs and permitting time for property owners of condominium units which qualify under the special provisions of Chapter 235. Additionally, the certificate of compliance procedure still offers protection of subdivision and ownership definitions to the property owners.

Affordable Housing In-Lieu Fee

Condo conversions are required to comply with on-site parking and landscaping development standards. Chapter 235 of the Huntington Beach Zoning and Subdivision Ordinance offers the special class of units two options to comply with these standards:

1. Retrofit the property to provide additional parking and landscaping in accordance with the code; or
2. Pay an affordable housing in-lieu fee for not providing additional parking and/or landscaping which will off-set the loss of affordable rental stock

Keyser Marston Associates, Inc. (KMA) performed an Affordable Housing In-Lieu Fee Study (October 15, 2004) to determine the amount of the fee (Attachment No. 4) sufficient to fund the financial gap associated with developing units that are subject to long-term income and affordability requirements.

According to KMA's study, the recommended Affordable Housing In-Lieu Fee per unit equates to \$15.00 per square foot of living area. A detailed description of the study methodology, assumptions, and conclusions can be reviewed in the attached analysis (Attachment No. 4). If the current property owners agree to pay the fee then the City will waive the development standard requirements for parking and landscaping. The City will then use the fee revenues to provide assistance to residential developers elsewhere in the

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City that agree to construct or substantially rehabilitate rental housing and to impose long-term income and affordability covenants on the units.

KMA also estimated the cost of retrofitting the property to meet current development standards and determined that adding additional parking spaces on site is not feasible. Therefore, the property owners would need to reduce the parking requirement by eliminating bedrooms to comply with current parking standards. KMA determined that a remodel and reduction of bedrooms would result in a decrease in property values. KMA also estimated the cost of compliance with landscaping requirements. In summary, a property owner's cost of complying with parking and landscaping standards equates to \$30.00 per square foot of living area. Contrasted with the recommended \$15.00 per square foot Affordable Housing In-Lieu Fee, most property owners would choose to opt out of retrofitting the property and would agree to pay the in-lieu fee.

SUMMARY:

Zoning Text Amendment No. 04-03 modifies the Huntington Beach Zoning and Subdivision Ordinance for the purpose of eliminating the tentative parcel map requirement for existing condominium conversions. The recommended text amendment provides relief to residents attempting to legalize the ownership status of their units. The recommended ordinance changes continue to ensure protection of existing owners by requiring a plat map and certificate of compliance to be approved and recorded at the County of Orange.

Additionally, an affordable housing in-lieu fee of \$15.00 per square foot allows the City to waive parking and landscaping development standards for those property owners that cannot retrofit their properties.

Staff recommends approval of Zoning Text Amendment No. 04-03 and Resolution No. _____ for the following reasons:

- Decreases processing time for applicants
- Reduces application costs for property owners
- Continues to provide for quality development
- Ensures protection of existing and future property owners
- Provides for payment of an affordable housing in-lieu fee in cases where current parking or landscaping codes cannot be met

Environmental Status:

Zoning Text Amendment No. 04-03 is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to City Council Resolution 4501, Section 6, Class 20, which supplements CEQA and exempts minor amendments to zoning ordinances. Resolution No. _____ is not subject to the provisions of CEQA pursuant to Section 15061 b) 3), because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

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Attachment(s):

City Clerk's Page Number	No.	Description
8	1.	Findings for Approval
10	2.	Ordinance No. <u>3690</u> Including Legislative Draft
20	3.	Resolution No. <u>2004-91</u>
23	4.	Affordable Housing In-Lieu Fee Study by Keyser Marston Associates, Inc. dated October 15, 2004 <i>Exhibit A" to Resolution 2004-91</i>
59	5.	Power Point Slide Presentation

RCA Author: Jane James/Scott Hess

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